

# **Exhibit E**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BARBARA BROUGHEL

Plaintiff,

v.

THE BATTERY CONSERVANCY,  
AND WARRIE PRICE

Defendants.

Index No. 07CV7755  
Judge Daniels

**SUPPLEMENT TO PLAINTIFF'S  
INITIAL DISCLOSURE UNDER  
FEDERAL RULES OF CIVIL  
PROCEDURE 26(a)(1)(C)**

Plaintiff Barbara Broughel ("Broughel") supplements Plaintiff's response pursuant to Federal Rules of Civil Procedure ("Rules") 26(a)(1)(C) as follows:

I. Categories of Damages

(A) Injury to Reputation.

(1) 8,000,000 people visit Battery Park a year. Plaintiff has lost exposure and name recognition by removal from the Battery Carousel Project ("the Project").

(2) The Project has been advertised with the artist's name, and promoted through word of mouth to local and national art world professionals.

Therefore,

(a) whatever inferior product is produced will be mistaken, by many, as the work of Plaintiff;

(b) professional bodies associated with public art commissions in New York and across the country will believe falsely that Plaintiff was terminated for cause, and thus make it more difficult for Plaintiff to acquire commissions.

(3) the losses attributed to injury to Plaintiff's reputation are difficult to calculate but will be proved at trial to be an amount no less than \$100,000.00

(B) Lost Income.

(1) Lost income through design phase 2 of the Project (est @ 6 elevation dwgs @\$1,000 each and 1 maquette@ \$3,000 each/for each of 30 figures) (up to \$270,000).

(2) Income through fabrication oversight est @ 16 weeks @ \$75/hr. (\$48,000).

(3) Income through long-term maintenance consulting over an estimated 30 year period (\$30,000?).

(4) Broughel lost approximately 3 years of her time in not pursuing other paid commissions, residencies, grants, teaching opportunities and the production of new works for sale, which are her bread and butter, but would have conflicted with the time required of the Project. At this point in her career, she is an attractive candidate for commissions, grants, residencies, etc, and since termination she has begun the production of new work, and the pursuit of other

commissions and opportunities, but expect these will take a minimum of 12-15 months to bear fruit. Est \$45,000x 4 = (\$180,000).

(5) This Project has physically occupied the greater part of Plaintiff's studio facilities for over three years, at a monthly cost of approximately \$2,500/month for the space.

(C) Damages for Emotional distress.

Loss to be proved at trial for three (3) years of emotional distress caused by Defendants.

(D) Copyright Damages as Allowed under 17 U.S.C.


II. Documents

(A) Attached hereto and Bates stamped are documents related to the information provided in the Initial disclosure Pursuant to Rule 26(a) currently in the possession and control of Plaintiff.

(B) The above information will be supplemented in accordance with Rule 26.

Dated: New York, New York  
December 10, 2007

Respectfully submitted,

By:   
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*Attorney for Plaintiff Barbara Broughel*